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MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Schneidewend, et al. :
Application No. 09/190,309 : ON PETITION
Filed: November 12, 1998 :
Attorney Docket No. RCA89.041 :
:

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 20, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely seek a rehearing or judicial review of the decision by the Board of Patent Appeals and Interferences, mailed September 8, 2008. Pursuant to 37 CFR 41.52 and 37 CFR 1.304, applicants had two months to seek rehearing or judicial review. Neither having been sought, the application became abandoned on November 9, 2008. The Office mailed a Notice of Abandonment on November 21, 2008. Applicants filed a petition to revive under 37 CFR 1.137(b) on February 24, 2009. However, the petition was dismissed in a decision mailed on March 30, 2009. The petition was dismissed because Applicant's reply, an Amendment, was not a proper reply because the Board decision, sustaining the Examiner in full, did not set forth any new grounds of rejection under 37 CFR 41.50(b).

With the instant petition, applicants have submitted a proper reply in the form of an RCE and submission (an Amendment). See MPEP 1214.07. The other requirements for a grantable petition were previously satisfied on February 24, 2009.

The application is being forwarded to Group Art Unit 2421 for consideration of the RCE, filed April 20, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
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Office of Petitions